

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
SEPTEMBER 5, 1989**

The one thousand five hundred and eighty-third meeting of the Milwaukie City Council was called to order at 6:57 PM in the Council Chambers with the following Councilmembers present:

Roger Hall,  
Mayor  
Craig Lomnicki

William Fitzgerald  
Chere' Sandusky  
Michael Richmond

Also present:

Dan Bartlett,  
City Manager  
Tim Ramis,  
City Attorney  
Phil Grillo,  
City Attorney  
Bill Monahan,  
City Attorney  
Sandra Miller,  
Assistant to the  
City Manager

Dick Bailey,  
Public Works Director  
Bill Adams,  
Community Development Director  
Dave Krogh,  
Assistant Planner  
Pat Duval,  
Executive Secretary

**AUDIENCE PARTICIPATION**

**Darlene Mayes**, 5431 SE Willow, addressed City Council regarding the Homesite Development Co. subdivision adjacent to her property. She expressed concern that inadequate drainage might cause flooding on her property as had occurred after development of the nearby Cherrybrook subdivision. **Mayes** requested that Council, Planning Commission, and Engineering staff provide her with assurances that adequate drainage plans for the subdivision would be developed.

**Jim Backenstos**, 3626 SE Harrison, read excerpts of a petition protesting water rate increases adopted by City Council in Resolution 19-1989. He added that residents were concerned that the City rebate its customers in the event that the party responsible for the pollution of the water system were found. **Backenstos** asked that a citizen task force be appointed in order to draft a new resolution in opposition to what he considered wasteful, bureaucratic practices of resolution 19-1989.

**Backenstos** then addressed the urban renewal plan. Among his concerns were extension of the redevelopment plan boundary into the river; the possible construction of a high-rise hotel; and the loss of funds to the school district through the use of tax increment financing. **Backenstos** said he did not believe that the downtown could be revitalized to be competitive with the retail centers in Milwaukie Marketplace and the Clackamas Town Center.

**Steve Mayes**, 5431 SE Willow, said he was also concerned with potential drainage problems in conjunction with the Homesite Development Co. subdivision. **City Manager Bartlett** responded that all development applicants are obliged to conform to ultimate urban service criteria, which includes adequate drainage. He said the

City Engineer reviews all subdivision plans for compliance to standards. Mayes said

he was concerned that there appeared to be no clear drainage plans at this time. **Bill Adams**, Community Development Director, said that the developer will be required to meet City standards in the final design. Mayes asked if the City had additional information available regarding the sump as had been discussed at the previous City Council meeting. **Bartlett** said the drain had been installed while the area was under County jurisdiction. He said that although the City has no responsibility for the drain, it will be included as a consideration in the subdivision plan.

**Backenstos** stated that in the petition regarding water rates, it was requested that City Council immediately rescind Resolution 19-1989.

**Marlene Brandt**, 9903 SE 49th, said she had lived within two blocks of the Mayes property and confirmed that there was a drainage problem in the area.

## **JOINT PUBLIC HEARING OF THE MILWAUKIE CITY COUNCIL AND THE MILWAUKIE REDEVELOPMENT COMMISSION**

### **Consideration of Milwaukie Redevelopment Plan**

**Mayor Hall** called the second public hearing to consider the Riverfront Urban Renewal Plan to order at 7:15 PM.

**Conflicts of Interest:** None.

**Staff Report:** **Bill Adams**, Community Development Director, presented the staff report in which it was requested that City Council approve the Plan, with revisions, adopt the ordinance approving the Plan, and direct the City Attorney to prepare an election order and ballot title for Council consideration on September 19. He corrected the staff report in that it should state that the Redevelopment Commission moved the Urban Renewal Plan by vote to the City Council.

**Adams** stated that City staff had met with the representatives of the Knappton log dump and log raft operators. It was concluded that the boundary can accommodate the marina area by extending west from Jefferson, and the inclusion of the log raft was not critical. He pointed out the new proposed boundary on the map. **Adams** advised that if Council agreed to this change, the legal description and references in the Redevelopment Plan and Report would have to be changed.

**Charles Kupper**, financial consultant, presented a chart comparing tax rates for funding the riverfront project by using urban renewal, bond issue and direct levy figures. He also presented a table showing the projected increase of cumulative values added and the total assessed value for the City over the period of the urban renewal plan. **Kupper** pointed out that logical reasons for undertaking the project included increased livability for residents and lower tax rates in the future. He said that following the current trend, the only means by which City Council could lower the tax rates would be to either decrease services or to increase the assessed value in the City. **Kupper** said that without urban renewal, and assuming that all of the values will remain the same with no investment, Milwaukie's tax rate would continue to climb. He discussed the options for financing the urban renewal district. **Kupper** advised Council that there were costs involved in undertaking the plan and that a decision must be made regarding the most economical method of financing.

**Mayor Hall** asked **Kupper** to comment on the cost of not carrying out the urban renewal project. **Kupper** replied that there had been a 17% decrease in assessed value in the blighted area of downtown Milwaukie/McLoughlin Blvd. over the past 8 years. He said that history suggests that the area is economically stagnant and would probably worsen. **Kupper** added that after the project is complete, the City and its residents would realize better services through increased tax revenues.

**Councilmember Richmond**, referring to the chart handed out by **Kupper** on comparative tax rates, asked why there was such an increase in the 1994 direct levy figure. **Kupper** said that according to the report, 1994 was the year in which most project expenditures would be made, and the levy increase was a reflection of this.

Correspondence: **Mayor Hall** read a letter from Olson Bros. Shell, a long-time Milwaukie business, endorsing the proposed riverfront project.

**Bartlett** said although he had received no correspondence on the subject, he had received phone calls from various developers interested in a partnership with the City in the proposed project.

Audience Testimony: **Al Liane**, 4809 SE Monroe, said it was not clearly stated in section 2 of the conclusions in the proposed ordinance if residents would be allowed to vote on the riverfront development. **City Attorney Grillo** said that an election order and ballot title would be prepared for Council consideration at the September 19 meeting.

**Marlene Brandt**, 9903 SE 49th, asked several questions of City Council and staff. She asked how many years the plan would be in effect. **Kupper** replied that the plan was proposed to be complete in 10 years, but because of the manner in which bond issues are set, 12 years was used in the report.

**Brandt** asked if there would be park improvements at Harrison and 17th, and **Mayor Hall** replied that these improvements were in the plan. She asked who would pay to maintain the park. **Mayor Hall** said the park improvement would be a public/private partnership, and the City would not be solely responsible for its maintenance.

Next, **Brandt** referred to page 2 of the report regarding riverfront access. She asked if one could assume that the log dump would eventually have to be moved. **Mayor Hall** said that City staff recommended that the boundary be changed to exclude the log dump operation. **Adams** said the log raft issue had not been settled, but the City does intend to protect its riparian rights at the foot of Jefferson St. **Mayor Hall** reminded **Brandt** that approval of the urban renewal plan does not mean that building will immediately begin.

**Brandt** asked why this project could not be done by private development rather than the City's relying on tax revenues. **Mayor Hall** said although private development is feasible, the opportunity had been there for many years, but no offers had been made. He said at this time the cost to a developer of constructing the necessary infrastructure for such a project was prohibitive without a public/private partnership. **Mayor Hall** added that a partnership would allow the City to maintain more control over the type of development acceptable to citizens.

**Brandt** asked how much the riverfront development would cost the citizens to maintain and suggested the City institute a pay-for-use system. **Councilmember Lomnicki** said some costs would be associated with riverfront maintenance if residents wished to have a usable waterfront.

**Jack Caldwell**, representing Knappton Corp., said his clients were pleased that the Community Development staff had recommended that the waterfront area of Caffall Bros. be excluded from the plan boundary. He said that all of the land area, with the exception of the road, should not be included. **Councilmember Lomnicki** explained that all current uses of the Caffall property were grandfathered-in.

**Ralph Klein**, 10795 SE Riverway Ln., said a portion of his property was included in the urban renewal plan, and he requested that all of it be considered for exclusion. He said he had originally purchased the property because of the sight and noise buffer, and he said he was seeking an open space designation for his property in the Comp Plan. **Klein** also expressed concern with the effect of tax increment financing on his property. He asked if the property owners along the river had riparian rights as does the City.

**Grillo** said upland owners have riparian rights into the river unless there are some existing deed restrictions. He added that the City was aware of the riparian issues and that permits would be necessary for development.

**Donald Malmberg**, 10360 SE Waverley Ct., said that as a life-long resident of Oregon, he was concerned with both economic development and with the environment. He said he considered the 1989 plan not overly ambitious, but realistic enough to attract new business to revitalize the City and to increase urban pride. **Malmberg** urged a positive vote on November 7 ballot.

**Jan Frutiger**, 12201 SE 21, endorsed the redevelopment plan as something needed for the children growing up in Milwaukie. She also asked if the City had participated in Main Street USA program.

**Jim Backenstos**, 3626 SE Harrison, said a section should be added to the proposed ordinance stating that the City Attorney would prepare an election order and a ballot title for Council consideration on September 19.

**Grillo** said although it was not specifically written in the body of the ordinance to do this, Council had already directed staff to take this action.

**Backenstos** asked for clarification regarding condemnation. **Mayor Hall** said that residential properties were excluded from the ability to condemn.

**Backenstos** then asked if the boat ramp might be moved. **Mayor Hall** said at this time in the plan there are no plans to move the boat ramp.

**Gary Michael**, 11907 SE 19, Riverfront Citizens Advisory Commission chair, said that the Milwaukie downtown area and the riverfront are in need of assistance. He said the committee had spent months and years devising an open and responsive process. **Michael** said a practical and pragmatic plan been developed.

The meeting was recessed at 8:24 PM.

The meeting was reconvened at 8:38 PM.

Staff Comments: None.

Questions of Clarification: Councilmember Fitzgerald asked how far into the river riparian rights extended. Grillo said approximately 250 feet, and beyond that was the navigable channel in which other permits might be necessary prior to development of a marina.

Bartlett said that the North Clackamas Chamber of Commerce Economic Development Committee verbally endorsed the riverfront development plan.

Close of Hearing: Mayor Hall closed the public hearing at 8:40 PM.

Discussion among Councilmembers: Councilmember Lomnicki said he thought the plan boundaries should remain the same as originally proposed.

Councilmember Richmond said this he felt this was a good plan and should go to the voters as amended to date.

Councilmember Fitzgerald agreed with the previous statements of the other Councilmembers.

Councilmember Richmond added that the Riverfront Citizens Advisory Committee should be commended for their work.

Councilmember Lomnicki said the plan is an improvement politically because of a broader range of acceptance by residents. He said although a combined public/private design could compromise what residents and Council might prefer to see in the development, the plan balanced preservation of natural assets and the needs of developers. Councilmember Lomnicki for these reasons he would support the proposed plan.

Determination of Findings and Decision: It was moved by Mayor Hall and seconded by Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond to read the ordinance for the first time by title only as the boundary is amended and the addition of exhibit 5. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions. The ordinance was read the first time by title only.

It was moved by Mayor Hall and seconded by Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond to read the ordinance for the second time by title only. Motion passed with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions. The ordinance was read for the second time by title only.

It was moved by Mayor Hall and seconded by Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond to adopt the ordinance. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions.

## CITY COUNCIL MINUTES - SEPTEMBER 5, 1989

**ORDINANCE NUMBER 1664:****AN ORDINANCE APPROVING THE MILWAUKIE RIVERFRONT  
URBAN RENEWAL PLAN AND DIRECTING THAT NOTICE OF  
APPROVAL BE PUBLISHED.****PUBLIC HEARING****Hillman Powell Appeal**

City Attorney Ramis said that according to the written request of the Planning Commission and the agreement of the applicant that the appeal be stayed.

Mayor Hall opened the public hearing at 8:53 PM.

It was moved by Councilmember Fitzgerald and seconded by Councilmember Lomnicki to stay the hearing until properly heard by the Planning Commission with proper notification. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions.

**Consideration of Periodic Review/Plan Update**

Mayor Hall opened the public hearing on the Periodic Review/Comprehensive Plan Update process to order at 8:55 PM.

Conflicts of Interest: None.

Staff Report: Bill Adams, Community Development Director, presented the staff report in which City Council was requested to consider proposed modifications to the Periodic Review/Plan Update ordinances. The modifications included mobile home park standards providing for perimeter fencing and vegetation and changing the required setback from 20 feet to 15 feet.

Councilmember Lomnicki asked why it was necessary to have both a six foot wall or fence and sight obscuring vegetation within the mobile home park. Mayor Hall asked if the original intent had been to obscure the fence from inside. Adams said the purpose of the vegetation was for aesthetics. Councilmember Lomnicki said that it did not seem equitable that a certain type of vegetation had to be planted within the perimeter of the mobile home park.

Mayor Hall said the wording made it unclear as to which side of the fence it would be necessary to maintain a hedge. Councilmember Lomnicki questioned the right of the City to require property owners to plant a certain kind of hedge. Adams said a mobile home park is a leasing situation, and, as in apartment complexes, certain landscaping requirements exist. Councilmember Lomnicki said he felt this wording was too site specific. He said six-foot high fence or wall served the same purpose as a row of hedges to those on the outside of the mobile home park. Councilmember Lomnicki said the developer of a mobile home park would probably attempt to make the site as attractive as possible to potential renters, and it was not the duty of the City to make too many requirements.

## CITY COUNCIL MINUTES - SEPTEMBER 5, 1989

**City Attorney Ramis** agreed that the proposed modification was not clearly written.

**Councilmember Sandusky** asked **Councilmember Lomnicki** if he felt a sight-obscuring fence or vegetation was more appropriate.

**Dave Krogh**, Assistant Planner, said the statement was intended to mean that the fence would be around the perimeter of the park, and the planting would meet vegetation requirements. **Mayor Hall** said this would have to be clarified.

**Councilmember Lomnicki** said Council was not attempting to create a compound, but an area that was fenced on the boundary. He said necessary landscaping provisions already existed for the interior.

**Adams** said these fencing and landscaping requirements were meant to make a mobile home park located within a single-family residential area more palatable.

**Mayor Hall** asked if there were a precedent for the proposed requirement. **Bartlett** said there was a similar ordinance in Oregon City. He asked if Council were directing staff to rewrite the section to require a sight obscuring barrier, either fence or hedge, on the property line. It was agreed that staff would prepare a modification on this section of the plan.

**Adams** then discussed the plan modifications regarding Natural Resource Sites 4, 18, and 21. It was staff's recommendation to expand Site 4 to include Willamette River riparian areas from Johnson Creek to the south end of the sewage treatment plant. Other proposals were the inclusion to Site 18 of the 2-acre adjacent triangular property and to reduce the size of Site 21.

Other proposed modifications were: the addition of the 40-mile loop to the Community Service Overlay section of the Zoning Ordinance; elimination of the "maximum density" criteria listed in the Zoning Map Amendment Criteria; and redesignation of Johnson Creek Blvd. west of 45 Street from "minor arterial" to "collector."

**Adams** then referred to the list of concerns received from the State Department of Land Conservation and Development. Among these concerns were: Milwaukie's Willamette Greenway review process; historic resource process; compliance with Metro's "Regional Solid Waste Management Plan"; inclusion of the City's urban growth management area; and status of Milwaukie's Urban Growth Management Agreement with Clackamas County.

**City Attorney Ramis** said there were concerns which would have to be addressed with Metro regarding the "Regional Solid Waste Management Plan."

**Audience Testimony:** Lillie Moore, 4001 SE Johnson Creek Blvd., spoke on behalf of Roger Haas in support of Councilmember Lomnicki and his efforts to designate Johnson Creek Blvd. as a neighborhood collector.

**Staff Comments:** None.

**Questions of Clarification:** None.

**Close Hearing:** **Mayor Hall** closed the public hearing on the Periodic Review/Comprehensive Plan Update at 9:53 PM.

## CITY COUNCIL MINUTES - SEPTEMBER 5, 1989

Discussion among Council Members: It was the consensus of Council to continue the hearing to the first meeting in October.

The meeting recessed at 9:53 PM.

The meeting reconvened at 10:03 PM.

## **OTHER BUSINESS**

### **Consideration of Bid Award for Public Works Shops Facilities**

**Dick Bailey**, Public Works Director, presented the staff report in which City Council was requested to award a contract for the construction of the new public works office/shop facility. It was requested that the contract be awarded to Michael J. Watt, Inc. in the amount of \$744,889.

**Councilmember Fitzgerald** asked if the contractor were bonded and if there were a penalty phase. **Ray Bartel**, architect, said there was no penalty phase in the contract because enforcement would be difficult during the winter months. **Bailey** said a design plan had been submitted to Clackamas County for approval of landscaping.

It was moved by **Councilmember Fitzgerald** and seconded by **Councilmember Sandusky** to award the contract in the amount of \$744,889 to **Michael J. Watt, Inc.** for the construction of the new public works office/shop facility. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions.

### **Consideration of Personal Services Contract for Engineering Services**

**Dick Bailey**, Public Works Director, presented the staff report in which City Council was requested to acknowledge the implementation of a personal services contract with **Brown and Caldwell, Consulting Engineers**, for pre-production testing of Well #7 and continued testing of Wells #6 and #8. This testing complies with requirements for the testing for volatile chemicals. **Bailey** explained that the City had been notified that the testing standards in use did not meet superfund requirements for quality assurance and control. The total anticipated cost is expected to be under \$15,000, but in order to keep Council informed of all matters associated with the water contamination problem, staff presented this for consideration.

It was moved by **Councilmember Sandusky** and seconded by **Councilmember Lomnicki** to acknowledge the implementation of a personal services contract with **Brown and Caldwell** for pre-production testing of Well 7 and continue testing Wells 6 and 8. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki Councilmember Fitzgerald, Councilmember Sandusky and Councilmember Richmond aye; no nays; no abstentions.

### **City Response to Water Authority Application**

**City Attorney Monahan** presented the staff report in which it was stated that the water authority proposal of the Clackamas Water District was not in the best interest of the City of Milwaukie and the unincorporated areas of North Clackamas County.



## CITY COUNCIL MINUTES - SEPTEMBER 5, 1989

**It was moved by Councilmember Fitzgerald and seconded by Councilmember Lomnicki to authorize the Mayor to sign letters to the Clackamas County Commissioners and the Boundary Commission. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond; no nays; no abstentions.**

Annie Ross House

**Councilmember Sandusky stated that the next 6-month review of the operation of the Annie Ross House should be scheduled for the next meeting and that neighbors of the facility should be given the opportunity to comment.**

City Manager Evaluation

**Mayor Hall announced an Executive Session pursuant to ORS 192.660(1)(a) on Monday, September 11, 8:00 AM at Fire Administration Office..**

**CONSENT AGENDA**

**It was moved by Councilmember Sandusky and seconded by Councilmember Lomnicki to adopt the Consent Agenda consisting of the City Council Minutes of the August 15, 1989 and designation of Sandra Miller as City representative to the Disability Community Partnership Program. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond; no nays; no abstentions.**

**INFORMATION**

**Sandra Miller, Assistant to the City Manager, discussed the recent legislation effecting public meeting sites.**

**ADJOURNMENT**

**The meeting was adjourned at 10:26 PM.**

*Pat DuVal*

